

**Pt. 1210**

**23 CFR Ch. II (4–1–14 Edition)**

(b) If NHTSA and FHWA determine that the State is in noncompliance with the National Minimum Drinking Age based on their preliminary review, the State may, within 30 days of its receipt of the advance notice of apportionments, submit documentation showing why it is in compliance. Documentation shall be submitted to the National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

(c) Every fiscal year, each State determined to be in noncompliance with the National Minimum Drinking Age, based on NHTSA's and FHWA's final determination of compliance or noncompliance, will receive notice of the funds being withheld under § 1208.4 from apportionment, as part of the certification of apportionments required under 23 U.S.C. 104(e), which normally occurs on October 1 of each fiscal year.

[53 FR 31322, Aug. 18, 1988. Redesignated at 60 FR 66076, Dec. 21, 1995, as amended at 74 FR 28442, June 16, 2009]

**PART 1210—OPERATION OF  
MOTOR VEHICLES BY INTOXI-  
CATED MINORS**

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**AUTHORITY:** 23 U.S.C. 161; delegation of authority at 49 CFR 1.48 and 1.50.

**SOURCE:** 61 FR 55217, Oct. 25, 1996, unless otherwise noted.

**§ 1210.1 Scope.**

This part prescribes the requirements necessary to implement 23 U.S.C. 161, which encourages States to enact and enforce zero tolerance laws.

**§ 1210.2 Purpose.**

The purpose of this part is to specify the steps that States must take to

avoid the withholding of Federal-aid highway funds for noncompliance with 23 U.S.C. 161.

**§ 1210.3 Definitions.**

As used in this part:

(a) *Alcohol concentration* means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(b) *BAC* means either blood or breath alcohol concentration.

(c) *Operating a motor vehicle* means driving or being in actual physical control of a motor vehicle.

**§ 1210.4 Adoption of zero tolerance law.**

(a) The Secretary shall withhold five percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(3) and 104(b)(5) of title 23, United States Code, on the first day of fiscal year 1999 if the State does not meet the requirements of this part on that date.

(b) The Secretary shall withhold ten percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(3) and 104(b)(5) of title 23, United States Code, on the first day of fiscal year 2000 and any subsequent fiscal year if the State does not meet the requirements of this part on that date.

(c) A State meets the requirements of this section if the State has enacted and is enforcing a law that considers an individual under the age of 21 who has a BAC of 0.02 percent or greater while operating a motor vehicle in the State to be driving while intoxicated or driving under the influence of alcohol. The law must:

- (1) Apply to all individuals under the age of 21;
- (2) Set a BAC of not higher than 0.02 percent as the legal limit;
- (3) Make operating a motor vehicle by an individual under age 21 above the legal limit a *per se* offense;
- (4) Provide for primary enforcement; and
- (5) Provide that license suspensions or revocations are authorized for any violation of the State zero tolerance law.